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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 SIERRA CLUB and SOUTHERN BORDER
16 COMMUNITIES COALITION,

17 *Plaintiffs,*

18 *v.*

19 DONALD J. TRUMP, President of the United
20 States, in his official capacity; MARK T.
21 ESPER, Secretary of Defense, in his official
capacity; and STEVEN MNUCHIN, Secretary
of the Treasury in his official capacity,

22 *Defendants.*

CASE NO. 4:19-cv-00892-HSG

CONSENT MOTION FOR LEAVE TO FILE BRIEF
OF IRAQ AND AFGHANISTAN VETERANS OF
AMERICA AS *AMICUS CURIAE* IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT

Summary Judgment Hearing: Nov. 20, 2019
Time: 10:00 a.m.

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD

2 Iraq and Afghanistan Veterans of America hereby moves for permission to file an *amicus curiae*
 3 brief in support of Plaintiffs' motion for summary judgment. Counsel for Plaintiffs and Defendants have
 4 consented to the filing of this brief. A copy of the proposed brief and a proposed order are attached to
 5 this motion.

6 **STATEMENT OF INTEREST**

7 Iraq and Afghanistan Veterans of America ("IAVA") submits this brief as *amicus* on behalf of
 8 Plaintiffs. IAVA is the leading non-profit devoted to the interests of the post-9/11 generation of
 9 veterans, with 425,000 members comprising mostly veterans of the wars in Iraq and Afghanistan,
 10 including service members still on active duty. IAVA's membership also includes military spouses and
 11 dependents, and veterans who served domestically or during other conflicts.

12 IAVA's membership is diverse and represents the full spectrum of political persuasions. IAVA
 13 will not opine about the merits of the national policy to build a border wall, the existence of a national
 14 emergency, or the constitutionality of the President's declaration. Instead, IAVA writes to provide its
 15 unique perspective on the impact of the President's decision to divert funding from much-needed
 16 military construction projects. This decision will endanger the wellbeing of currently serving military
 17 members and their families and diminish their quality of life. For that reason, IAVA opposes the
 18 diversion of military construction funding to the border.

19 **ARGUMENT**

20 District courts have broad discretion to accept *amicus* briefs and "have 'exercised great
 21 liberality'" in doing so. *Cal. ex rel. Becerra v. U.S. Dep't of the Interior*, 381 F. Supp. 3d 1153, 1164
 22 (N.D. Cal. 2019) (quoting *Woodfin Suite Hotels, LLC v. City of Emeryville*, No. C 06-1254 SBA, 2007
 23 WL 81911, at *3 (N.D. Cal. Jan. 9, 2007)). *Amicus* briefs from parties concerning "issues that have
 24 potential ramifications beyond the parties involved," or that offer "unique information or perspective
 25 that can help the court beyond the help that the lawyers for the parties are able to provide," are
 26 particularly "welcome." *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061,
 27 1067 (N.D. Cal. 2005). A group that wishes to appear as an *amicus* need not establish any "strict

1 prerequisites,” but instead “merely make a showing that [its] participation is useful or otherwise
 2 desirable.” *Cal ex. rel. Becerra*, 381 F. Supp. 3d at 1164.

3 Here, this Court would benefit from hearing IAVA’s unique perspective on how the planned
 4 diversion of military construction funds to build a border wall will impact active-duty servicemembers
 5 and military families. That perspective gives context for the consequences of this Court’s rulings on the
 6 legal questions at issue. The parties are not in a position to explain the consequences for
 7 servicemembers or their families—and those harms to Americans who have already sacrificed so much
 8 for their country should not be ignored. IAVA participated as *amicus* in a different case involving the
 9 planned diversion of funds but before the announcement of specific projects slated to be deferred. *See*
 10 Brief of Iraq and Afghanistan Veterans of America as *Amicus Curiae*, *El Paso County v. Donald J.*
 11 *Trump*, No. 3:19-cv-66-DB (W.D. Tex. filed May 3, 2019), ECF 61-1. Now that those projects have
 12 been announced, and the consequences for the military made concrete, IAVA’s perspective will be all
 13 the more helpful to this Court.

14 **CONCLUSION**

15 The Court should grant leave for IAVA to file the attached brief as *amicus curiae*.

16
 17 DATED: October 21, 2019

Respectfully submitted,

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 19 IRAQ AND AFGHANISTAN VETERANS OF
 20 AMERICA

21 /s/ Lindsay L. Rodman
 22 LINDSAY L. RODMAN*
 23 **pro hac vice* forthcoming
 24 Attorney for *Amicus Curiae* IAVA

25 CONRAD & METLITZKY LLP

26 /s/ Mark R. Conrad
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 28 Local Counsel for *Amicus Curiae* IAVA

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2019, I caused the foregoing document to be filed via the CM/ECF system for the U.S. District Court for the Northern District of California, causing it to be served on all counsel of record.

Dated: October 21, 2019

/s/ Mark R. Conrad
Mark R. Conrad